

SENATE BILL 2420

By Norris

AN ACT to amend Tennessee Code Annotated, Title 6;
Title 7; Title 12; Title 13; Title 29; Title 49 and Title
68, relative to the power and use of eminent
domain to take land.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 17, is amended by adding
the following as a new part:

§ 29-17-1301. It is the intent of the Legislature that private property shall not be
condemned or taken by any municipality, county, university, housing authority, water and
wastewater treatment authority, the State of Tennessee or any other governmental
subdivision or entity for private ownership or lease by or for the benefit of any private
entity for profit as permitted under *Kelo v. City of New London*, No. 04-108, 2005 WL
1469529, (U.S. June 23, 2005); therefore, it is the intent of the General Assembly that
the private property rights of residents and businesses should be protected over the
interests of private developers and corporations. Thus, the power of eminent domain for
purposes of community redevelopment must be used sparingly; and such laws shall be
strictly and narrowly construed for use solely on legitimate redevelopment projects. In
the event of a conflict between this code section and an existing statute authorizing the
power of eminent domain for purposes of community redevelopment, this code section
shall control and shall be strictly construed to protect the private property rights of
residents and businesses over the interests of private developers and corporations.

§ 29-17-1302. As used in this part, "eminent domain" means the authority
conferred upon the government, and those entities to whom the government delegates
such authority, to condemn and take, in whole or in part, the private property of another

provided it is taken for public use and payment of just compensation is made for such property.

§ 29-17-1303. “Public use” also includes “public necessity” and means public necessity of the extreme sort warranted by facts of independent public significance. It does not include private ownership or lease for private economic development or redevelopment.

§ 29-17-1304. No governmental or other entity otherwise authorized to do so shall have the authority to condemn and take the private property of a person or other nongovernmental entity by use of the power of eminent domain if such taking is for the purpose of private economic development, private redevelopment, or solely for the purpose of improving tax revenue or the tax base including condemnation for the purpose of transferring, leasing, or allowing the use of such property to a private developer, corporation, or other entity to attempt to expand tax revenue, increase the taxable value of the property, or promote economic development. Private economic development or private redevelopment shall not be deemed to constitute a public use or purpose for which private property may be taken by eminent domain.

§ 29-17-1305. If property condemned or taken as permitted by this part is not used for the purpose or purposes for which it was condemned or for some other authorized public use, and the condemning entity subsequently decides to sell it, the property shall be first offered for sale to the person or persons from whom the property was condemned or taken, or such person’s or persons’ ascertainable heirs or assigns. Such property shall be offered at the price which was paid for the property, less such amount, if any, as the person shall show by good and sufficient documentation to be the amount of income and transaction taxes, if any, actually paid in connection with the property. If the offer is not accepted within ninety (90) days from the date it is made, the

property may be sold to any other person or persons but only at public sale after legal notice is given as provided by law.

§ 29-17-1306. The provisions of this part shall be strictly construed in favor of the individual or entity whose property is being taken and against the governmental or other entity exercising the power of eminent domain.

§ 29-17-1307. When determining whether any taking of private property by the use of eminent domain is a violation of this part, the burden shall be on the governmental or other entity exercising the right of eminent domain to show that the taking was not for the purpose of economic development or private redevelopment.

§ 29-17-1308. When determining whether any taking of private property by the use of eminent domain is a violation of this part or Article 1, § 21 of the Constitution of Tennessee, the taking of property for the purpose of private development or private redevelopment shall not be considered a “public use” of such property.

SECTION 2. Tennessee Code Annotated, Section 13-20-201, is amended by deleting the section in its entirety and substituting instead the following:

As used in this chapter:

(a) “Blighted areas” are areas (including slum areas) with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, lack of ventilation, light and sanitary facilities, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community. “Welfare of the community” does not include the need for increased tax revenues.

(b) “Dilapidation” means extreme deterioration and decay due to lack of repairs to and care of the area.

SECTION 3. This act shall take effect July 1, 2006, the public welfare requiring it.